

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 30, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 25, 2005

## SENATE BILL

**No. 668**

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**Introduced by Senator Kuehl**

February 22, 2005

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~~An act to amend Sections 2774 and 2774.1 of the Public Resources Code, relating to mining.~~ *An act to amend Sections 8899.12, 8899.14, 65302, and 65302.5 of the Government Code, and to amend Section 10295.5 of, and to repeal and add Section 20676 of, the Public Contract Code, and to amend Sections 603.1, 607, 611, 661, 2003, 2207, 2692, 2705.5, 2714, 2715, 2716, 2728, 2761, 2763, 2770, 2773.1, 2774, 2775, 2796.5, and 30404 of, to add Section 2772.7 to, and to repeal and add Section 2773.2 of, the Public Resources Code, relating to mining.*

### LEGISLATIVE COUNSEL'S DIGEST

SB 668, as amended, Kuehl. Mining.

*(1) Existing law establishes the Division of Mines and Geology in the Department of Conservation.*

*This bill would rename the division as the California Geological Survey in the Department of Conservation.*

*(2) Existing law requires the Department of Conservation, for purposes of complying with certain provisions regarding public contracts, to publish or otherwise make available, upon request, to the Department of General Services or a state agency, a list identifying certain surface mining operations. Existing law prohibits a state*

agency from acquiring or utilizing mined material unless the material is produced from a mining operation identified on that list.

This bill would also prohibit a state agency from contracting with a person utilizing these materials, as specified.

(3) Existing law prohibits an operator of surface mines in this state, whose operations are not identified in that list, from selling California mined material to a local agency.

This bill would instead prohibit a contractor or a mining operator from selling any minerals to a local agency unless the contractor or mining operator certifies, under penalty of perjury, that the minerals are from a mining operation identified in the list. Because this certification would be under penalty of perjury, the bill would impose a state-mandated local program by creating a new crime.

(4) Existing law requires the owner, lessor, lessee, agent, manager, or other person in charge of a mining operation to annually submit certain information in a report to the Director of Conservation, and to submit specified reporting fees to the State Mining and Geology Board. Existing law defines the term “mining operation” for purposes of these requirements, as a surface mine.

This bill would revise the definition of “mining operation” for purposes of these requirements to include any mining operation, including, but not limited to, a mining operation that is classified as a surface mine, and would impose those requirements upon the owner or operator of a mining operation.

The bill would require the owner or operator of a mining operation to allow access to the property to any governmental agency or the agent of any company providing financial assurances in connection with the reclamation plan.

(5) Existing law, the Surface Mining and Reclamation Act of 1975, governs surface mining operations and reclamation of mined lands. The act prohibits a person from conducting surface mining operations without obtaining a permit from the lead agency for those operations, and submitting and receiving approval for a reclamation plan and financial assurances from the lead agency. The act provides that it does not limit, among other things, the power of any city or county to regulate the use of buildings, structures, and land as between industry, business, residences, open space and other purposes.

The bill would provide that the exemption of the act upon a city or county’s power does not apply to an area classified by the State Geologist or designated by the board as an area that contains mineral

*deposits and is an area of regional or statewide significance, as specified.*

*(6) The act requires the State Geologist to classify certain areas identified by the Office of Planning and Research as areas containing little or no mineral deposits, or significant mineral deposits, or requiring further evaluation.*

*This bill would instead require the State Geologist to classify those areas that do not require further evaluation as an area that contains mineral deposits and that is not of regional or statewide significance, or an area that contains mineral deposits and that is either of regional or statewide significance.*

*(7) Existing law requires a lead agency, before permitting a use that would threaten the potential to extract minerals in specified areas, to prepare a specified statement if the area is designated by the State Mining and Geology Board as an area of regional or statewide significance, and the lead agency either has designated that area in its general plan as having important minerals or otherwise has not yet acted, as specified.*

*This bill would additionally prohibit a city or county, in any area classified by the State Geologist or designated by the board as an area that contains mineral deposits and is an area of regional or statewide significance, in either its general plan, or in its resource management plan, from allowing the specific area to be used for, or permitting a use, that is inconsistent with the exploitation or development of that area for mineral excavation and production, until commercial production of the area so designated is completed. The bill would allow the city or county to permit part of the area to be utilized for a use not involving mineral exploitation or development, under specified circumstances.*

*(8) Existing law authorizes the director, with the consultation of appropriate state and local agencies, until January 1, 2007, to remediate or complete reclamation of abandoned mined lands that meet certain requirements. Existing law provides that the operator, landowner, and the person or persons who allowed or caused any pollution or nuisance, are liable for any remediation or reclamation work accomplished, or other necessary remedial action taken by any governmental agency and provides that the amount of the costs are recoverable in a civil action by, and paid to, the governmental agency and the director, to the extent of the director's contribution to the*

*costs of the remediation, reclamation, cleanup, and abatement or other corrective action.*

*This bill would delete the repeal of those provisions, thereby continuing indefinitely those remediation and cost recovery provisions.*

*(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~(1) Existing law, the Surface Mining and Reclamation Act of 1975, requires a lead agency, as defined, to submit to the Director of Conservation a surface mining operation's reclamation plan, financial assurances, or amendments for review before approving the operation. The director may prepare written comments on the submitted plan, assurances, or amendments to the lead agency. Existing law requires the lead agency to respond to the director's comments and provide copies of the director's comments and the lead agency's response to the affected operator.~~

~~This bill would require the lead agency to provide a 30 days' notice to the director and the affected operator regarding the time, place, and date of a hearing before the lead agency on the approval of the plan, assurance, or amendment. If no approval hearing is required, the bill would require the lead agency to provide a 30 days' notice to the director and the affected operator of its intent to approve the plan, assurance, or amendment. The bill would impose a new duty on a local agency by requiring the local agency to provide the required notice, thereby creating a state-mandated local program.~~

~~(2) Existing law requires the Director of Conservation, before taking an action to enforce the act, to either provide the lead action with a 15 days' notice of the violation or determine that the violation amounts to an imminent and substantial endangerment of the public health or safety, or the environment.~~

~~This bill would, instead, authorize the director, under specified circumstances to bring a writ of mandamus action against the lead agency to set aside the approval of a reclamation plan, financial assurance, or amendment. The bill also would authorize the director, under specified circumstances, to seek an injunction against a surface~~

mining operation from operating pursuant to a reclamation plan, financial assurance, or amendment that does not conform to law.

(3) ~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 8899.12 of the Government Code is*  
2     *amended to read:*

3     8899.12. (a) Participants in the EREC shall be selected by  
4     the Seismic Safety Commission in collaboration with the  
5     California Council on Science and Technology and the ~~Division~~  
6     ~~of Mines and Geology~~ *California Geological Survey* in the  
7     Department of Conservation. EREC participants shall include,  
8     but not be limited to, representatives from all of the following:

- 9     (1) Research universities.  
10    (2) Major professional organizations.  
11    (3) State agencies.  
12    (4) Federal agencies.  
13    (5) Private industry.

14    (b) The organization and management of the EREC shall be  
15    the responsibility of the Seismic Safety Commission, in  
16    collaboration with the California Council on Science and  
17    Technology and the ~~Division of Mines and Geology~~ *California*  
18    *Geological Survey*.

19    *SEC. 2. Section 8899.14 of the Government Code is amended*  
20    *to read:*

21    8899.14. The Seismic Safety Commission, in collaboration  
22    with the California Council on Science and Technology, the  
23    ~~Division of Mines and Geology~~ *California Geological Survey*,  
24    and the Office of Competitive Technology, shall provide  
25    structure for the EREC by submitting a proposed five-year plan  
26    for review and consideration. Included with this submission shall  
27    be an appropriate schedule and structure for reviewing and

1 critiquing existing and emerging technologies for earthquake  
2 research. The EREC shall review, critique, and revise the  
3 proposed plan submitted by the Seismic Safety Commission, as  
4 appropriate to the needs of California. The EREC shall present its  
5 findings to the Seismic Safety Commission.

6 *SEC. 3. Section 65302 of the Government Code is amended to*  
7 *read:*

8 65302. The general plan shall consist of a statement of  
9 development policies and shall include a diagram or diagrams  
10 and text setting forth objectives, principles, standards, and plan  
11 proposals. The plan shall include the following elements:

12 (a) A land use element that designates the proposed general  
13 distribution and general location and extent of the uses of the  
14 land for housing, business, industry, open space, including  
15 agriculture, natural resources, recreation, and enjoyment of  
16 scenic beauty, education, public buildings and grounds, solid and  
17 liquid waste disposal facilities, and other categories of public and  
18 private uses of land. The land use element shall include a  
19 statement of the standards of population density and building  
20 intensity recommended for the various districts and other  
21 territory covered by the plan. The land use element shall identify  
22 areas covered by the plan which are subject to flooding and shall  
23 be reviewed annually with respect to those areas. The land use  
24 element shall also do both of the following:

25 (1) Designate in a land use category that provides for timber  
26 production those parcels of real property zoned for timberland  
27 production pursuant to the California Timberland Productivity  
28 Act of 1982, Chapter 6.7 (commencing with Section 51100) of  
29 Part 1 of Division 1 of Title 5.

30 (2) Consider the impact of new growth on military readiness  
31 activities carried out on military bases, installations, and  
32 operating and training areas, when proposing zoning ordinances  
33 or designating land uses covered by the general plan for land, or  
34 other territory adjacent to military facilities, or underlying  
35 designated military aviation routes and airspace.

36 (A) In determining the impact of new growth on military  
37 readiness activities, information provided by military facilities  
38 shall be considered. Cities and counties shall address military  
39 impacts based on information from the military and other  
40 sources.

1 (B) The following definitions govern this paragraph:

2 (i) “Military readiness activities” mean all of the following:

3 (I) Training, support, and operations that prepare the men and  
4 women of the military for combat.

5 (II) Operation, maintenance, and security of any military  
6 installation.

7 (III) Testing of military equipment, vehicles, weapons, and  
8 sensors for proper operation or suitability for combat use.

9 (ii) “Military installation” means a base, camp, post, station,  
10 yard, center, homeport facility for any ship, or other activity  
11 under the jurisdiction of the United States Department of Defense  
12 as defined in paragraph (1) of subsection (e) of Section 2687 of  
13 Title 10 of the United States Code.

14 (b) A circulation element consisting of the general location  
15 and extent of existing and proposed major thoroughfares,  
16 transportation routes, terminals, any military airports and ports,  
17 and other local public utilities and facilities, all correlated with  
18 the land use element of the plan.

19 (c) A housing element as provided in Article 10.6  
20 (commencing with Section 65580).

21 (d) A conservation element for the conservation, development,  
22 and utilization of natural resources including water and its  
23 hydraulic force, forests, soils, rivers and other waters, harbors,  
24 fisheries, wildlife, minerals, and other natural resources. The  
25 conservation element shall consider the effect of development  
26 within the jurisdiction, as described in the land use element, on  
27 natural resources located on public lands, including military  
28 installations. That portion of the conservation element including  
29 waters shall be developed in coordination with any countywide  
30 water agency and with all district and city agencies that have  
31 developed, served, controlled or conserved water for any purpose  
32 for the county or city for which the plan is prepared.  
33 Coordination shall include the discussion and evaluation of any  
34 water supply and demand information described in Section  
35 65352.5, if that information has been submitted by the water  
36 agency to the city or county. The conservation element may also  
37 cover the following:

38 (1) The reclamation of land and waters.

39 (2) Prevention and control of the pollution of streams and  
40 other waters.

1 (3) Regulation of the use of land in stream channels and other  
2 areas required for the accomplishment of the conservation plan.

3 (4) Prevention, control, and correction of the erosion of soils,  
4 beaches, and shores.

5 (5) Protection of watersheds.

6 (6) The location, quantity and quality of the rock, sand and  
7 gravel resources.

8 (7) Flood control.

9 The conservation element shall be prepared and adopted no  
10 later than December 31, 1973.

11 (e) An open-space element as provided in Article 10.5  
12 (commencing with Section 65560).

13 (f) A noise element which shall identify and appraise noise  
14 problems in the community. The noise element shall recognize  
15 the guidelines established by the Office of Noise Control in the  
16 State Department of Health Services and shall analyze and  
17 quantify, to the extent practicable, as determined by the  
18 legislative body, current and projected noise levels for all of the  
19 following sources:

20 (1) Highways and freeways.

21 (2) Primary arterials and major local streets.

22 (3) Passenger and freight on-line railroad operations and  
23 ground rapid transit systems.

24 (4) Commercial, general aviation, heliport, helistop, and  
25 military airport operations, aircraft overflights, jet engine test  
26 stands, and all other ground facilities and maintenance functions  
27 related to airport operation.

28 (5) Local industrial plants, including, but not limited to,  
29 railroad classification yards.

30 (6) Other ground stationary noise sources, including, but not  
31 limited to, military installations, identified by local agencies as  
32 contributing to the community noise environment.

33 Noise contours shall be shown for all of these sources and  
34 stated in terms of community noise equivalent level (CNEL) or  
35 day-night average level ( $L_{dn}$ ). The noise contours shall be  
36 prepared on the basis of noise monitoring or following generally  
37 accepted noise modeling techniques for the various sources  
38 identified in paragraphs (1) to (6), inclusive.



1 The noise contours shall be used as a guide for establishing a  
2 pattern of land uses in the land use element that minimizes the  
3 exposure of community residents to excessive noise.

4 The noise element shall include implementation measures and  
5 possible solutions that address existing and foreseeable noise  
6 problems, if any. The adopted noise element shall serve as a  
7 guideline for compliance with the state's noise insulation  
8 standards.

9 (g) A safety element for the protection of the community from  
10 any unreasonable risks associated with the effects of seismically  
11 induced surface rupture, ground shaking, ground failure, tsunami,  
12 seiche, and dam failure; slope instability leading to mudslides  
13 and landslides; subsidence, liquefaction and other seismic  
14 hazards identified pursuant to Chapter 7.8 (commencing with  
15 Section 2690) of Division 2 of the Public Resources Code, and  
16 other geologic hazards known to the legislative body; flooding;  
17 and wild land and urban fires. The safety element shall include  
18 mapping of known seismic and other geologic hazards. It shall  
19 also address evacuation routes, military installations, peakload  
20 water supply requirements, and minimum road widths and  
21 clearances around structures, as those items relate to identified  
22 fire and geologic hazards.

23 (1) Prior to the periodic review of its general plan and prior to  
24 preparing or revising its safety element, each city and county  
25 shall consult the ~~Division of Mines and Geology California~~  
26 *Geological Survey* of the Department of Conservation and the  
27 Office of Emergency Services for the purpose of including  
28 information known by and available to the department and the  
29 office required by this subdivision.

30 (2) To the extent that a county's safety element is sufficiently  
31 detailed and contains appropriate policies and programs for  
32 adoption by a city, a city may adopt that portion of the county's  
33 safety element that pertains to the city's planning area in  
34 satisfaction of the requirement imposed by this subdivision.

35 *SEC. 4. Section 65302.5 of the Government Code is amended*  
36 *to read:*

37 65302.5. (a) At least 45 days prior to adoption or amendment  
38 of the safety element, each county and city shall submit to the  
39 ~~Division of Mines and Geology California Geological Survey~~ of  
40 the Department of Conservation one copy of a draft of the safety

1 element or amendment and any technical studies used for  
2 developing the safety element. The division may review drafts  
3 submitted to it to determine whether they incorporate known  
4 seismic and other geologic hazard information, and report its  
5 findings to the planning agency within 30 days of receipt of the  
6 draft of the safety element or amendment pursuant to this  
7 subdivision. The legislative body shall consider the division's  
8 findings prior to final adoption of the safety element or  
9 amendment unless the division's findings are not available within  
10 the above prescribed time limits or unless the division has  
11 indicated to the city or county that the division will not review  
12 the safety element. If the division's findings are not available  
13 within those prescribed time limits, the legislative body may take  
14 the division's findings into consideration at the time it considers  
15 future amendments to the safety element. Each county and city  
16 shall provide the division with a copy of its adopted safety  
17 element or amendments. The division may review adopted safety  
18 elements or amendments and report its findings. All findings  
19 made by the division shall be advisory to the planning agency  
20 and legislative body.

21 (1) The draft element of or draft amendment to the safety  
22 element of a county or a city's general plan shall be submitted to  
23 the State Board of Forestry and Fire Protection and to every local  
24 agency that provides fire protection to territory in the city or  
25 county at least 90 days prior to either of the following:

26 (A) The adoption or amendment to the safety element of its  
27 general plan for each county that contains state responsibility  
28 areas.

29 (B) The adoption or amendment to the safety element of its  
30 general plan for each city or county that contains a very high fire  
31 hazard severity zone as defined pursuant to subdivision (b) of  
32 Section 51177.

33 (2) A county that contains state responsibility areas and a city  
34 or county that contains a very high fire hazard severity zone as  
35 defined pursuant to subdivision (b) of Section 51177, shall  
36 submit for review the safety element of its general plan to the  
37 State Board of Forestry and Fire Protection and to every local  
38 agency that provides fire protection to territory in the city or  
39 county in accordance with the following dates as specified,

1 unless the local government submitted the element within five  
2 years prior to that date:

3 (A) Local governments within the regional jurisdiction of the  
4 San Diego Association of Governments: December 31, 2010.

5 (B) Local governments within the regional jurisdiction of the  
6 Southern California Association of Governments: December 31,  
7 2011.

8 (C) Local governments within the regional jurisdiction of the  
9 Association of Bay Area Governments: December 31, 2012.

10 (D) Local governments within the regional jurisdiction of the  
11 Council of Fresno County Governments, the Kern County  
12 Council of Governments, and the Sacramento Area Council of  
13 Governments: June 30, 2013.

14 (E) Local governments within the regional jurisdiction of the  
15 Association of Monterey Bay Area Governments: December 31,  
16 2014.

17 (F) All other local governments: December 31, 2015.

18 (3) The State Board of Forestry and Fire Protection shall, and  
19 a local agency may, review the draft or an existing safety element  
20 and report its written recommendations to the planning agency  
21 within 60 days of its receipt of the draft or existing safety  
22 element. The State Board of Forestry and Fire Protection and  
23 local agency shall review the draft or existing safety element and  
24 may offer written recommendations for changes to the draft or  
25 existing safety element regarding both of the following:

26 (A) Uses of land and policies in state responsibility areas and  
27 very high fire hazard severity zones that will protect life,  
28 property, and natural resources from unreasonable risks  
29 associated with wildland fires.

30 (B) Methods and strategies for wildland fire risk reduction and  
31 prevention within state responsibility areas and very high hazard  
32 severity zones.

33 (b) Prior to the adoption of its draft element or draft  
34 amendment, the board of supervisors of the county or the city  
35 council of a city shall consider the recommendations made by the  
36 State Board of Forestry and Fire Protection and any local agency  
37 that provides fire protection to territory in the city or county. If  
38 the board of supervisors or city council determines not to accept  
39 all or some of the recommendations, if any, made by the State  
40 Board of Forestry and Fire Protection or local agency, the board

1 of supervisors or city council shall communicate in writing to the  
2 State Board of Forestry and Fire Protection or to the local  
3 agency, its reasons for not accepting the recommendations.

4 (c) If the State Board of Forestry and Fire Protection or local  
5 agency's recommendations are not available within the time  
6 limits required by this section, the board of supervisors or city  
7 council may act without those recommendations. The board of  
8 supervisors or city council shall take the recommendations into  
9 consideration at the next time it considers amendments pursuant  
10 to paragraph (1) of subdivision (a).

11 *SEC. 5. Section 10295.5 of the Public Contract Code is*  
12 *amended to read:*

13 10295.5. (a) Notwithstanding any other provision of law, no  
14 state agency shall acquire or utilize sand, gravel, aggregates, or  
15 other minerals produced from a surface mining operation subject  
16 to the Surface Mining and Reclamation Act of 1975 (Chapter 9  
17 (commencing with Section 2710) of Division 2 of the Public  
18 Resources Code), *or contract with a person who is not a surface*  
19 *mining operator, but who is supplying or utilizing those mined*  
20 *materials, to perform work for or supply materials to a state*  
21 *agency, unless the operation is identified in the list published*  
22 *pursuant to subdivision (b) of Section 2717 of the Public*  
23 *Resources Code as having either of the following:*

24 (1) An approved reclamation plan and financial assurances  
25 covering the affected surface mining operation.

26 (2) An appeal pending before the State Mining and Geology  
27 Board pursuant to subdivision (e) of Section 2770 of the Public  
28 Resources Code with respect to the reclamation plan or financial  
29 assurances.

30 ~~(b) The department shall revise its procedures and~~  
31 ~~specifications for the acquisition of sand, gravel, aggregates, and~~  
32 ~~other minerals to ensure maximum compliance with this section.~~

33 ~~(e)~~ For purposes of this section, "minerals" means any  
34 naturally occurring chemical element or compound, or groups of  
35 elements and compounds, formed from inorganic processes and  
36 organic substances, including, but not limited to, coal, peat, and  
37 bituminous rock, but excluding geothermal resources, natural  
38 gas, and petroleum.

39 ~~(d)~~

(c) The requirements of this section shall apply to mining operations on federal lands or Indian lands that are subject to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code) pursuant to a memorandum of understanding between the Department of Conservation and the federal agency having jurisdiction over the lands.

*SEC. 6. Section 20676 of the Public Contract Code is repealed.*

~~20676. (a) Operators of surface mines in this state, whose operations are not identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code, may not sell that California-mined material to a local agency.~~

~~(b) As used in this section, local agency means any county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or any other local public agency.~~

~~(c) The prohibition in subdivision (a) applies to a sale of mined material to a contractor when the contractor is acting on behalf of, or pursuant to, a contract with a local agency, or otherwise tends to use the mined material on a project of a local agency.~~

*SEC. 7. Section 20676 is added to the Public Contract Code, to read:*

*20676. A contractor or a mining operator shall not sell any minerals, as defined in subdivision (c) of Section 10295.5, to a local agency, unless the contractor or mining operator certifies, under penalty of perjury, that the minerals are from a mining operation identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code.*

*SEC. 8. Section 603.1 of the Public Resources Code is amended to read:*

*603.1. The director is hereby vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Geologist as Chief of the Division of Mines and Geology California Geological Survey of the department. The director may appoint an assistant or deputy director to exercise any powers and duties in the administration of the Division of Mines*

1 ~~and Geology~~ California Geological Survey that the director may  
2 delegate to that person.

3 *SEC. 9. Section 607 of the Public Resources Code is amended*  
4 *to read:*

5 607. The work of the department shall be divided into at least  
6 the following divisions:

7 (a) ~~Division of Mines and Geology~~ California Geological  
8 Survey.

9 (b) Division of Oil, Gas, and Geothermal Resources.

10 (c) Division of Land Conservation.

11 (d) Division of Recycling.

12 *SEC. 10. Section 611 of the Public Resources Code is*  
13 *amended to read:*

14 611. Notwithstanding any other provision of this code or of  
15 law and except as provided in the State Building Standards Law,  
16 Part 2.5 (commencing with Section 18901) of Division 13 of the  
17 Health and Safety Code, on and after January 1, 1980, the  
18 department, director, the State Geologist, the State Mining and  
19 Geology Board, or the ~~Division of Mines and Geology~~ California  
20 Geological Survey shall not adopt nor publish a building standard  
21 as defined in Section 18909 of the Health and Safety Code unless  
22 the provisions of Sections 18930, 18933, 18938, 18940, 18943,  
23 18944, and 18945 of the Health and Safety Code are expressly  
24 excepted in the statute under which the authority to adopt rules,  
25 regulations, or orders is delegated. Any building standard  
26 adopted in violation of this section shall have no force or effect.  
27 Any building standard adopted before January 1, 1980, pursuant  
28 to this code and not expressly excepted by statute from such  
29 provisions of the State Building Standards Law shall remain in  
30 effect only until January 1, 1985, or until adopted, amended, or  
31 superseded by provisions published in the State Building  
32 Standards Code, whichever occurs sooner.

33 *SEC. 11. Section 661 of the Public Resources Code is*  
34 *amended to read:*

35 661. As used in this article, “board” means the State Mining  
36 and Geology Board and “division” means the ~~Division of Mines~~  
37 ~~and Geology~~ California Geological Survey of the department.

38 *SEC. 12. Section 2003 of the Public Resources Code is*  
39 *amended to read:*

2003. “Division,” in reference to the government of this state, means the ~~Division of Mines and Geology~~ *California Geological Survey* in the Department of Conservation.

*Wherever any reference is made to the Division of Mines and Geology in the Department of Conservation pertaining to a duty, power, purpose, responsibility, or jurisdiction that is transferred to the California Geological Survey by this section, it shall be deemed to be a reference to, and to mean, the California Geological Survey of the Department of Conservation.*

SEC. 13. Section 2207 of the Public Resources Code is amended to read:

2207. (a) ~~The owner, lessor, lessee, agent, manager, or other person in charge or the operator of any a mining operation of whatever kind or character~~ within the state shall forward to the director annually, not later than a date established by the director, upon forms ~~furnished~~ *approved* by the board *from time to time*, a report, *subject to subdivision (i)*, that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7 ½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation’s reclamation plan.

(6) The mining operation’s status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency.

(9) Proof of financial assurances.

1 (10) Ownership of the property, including government  
2 agencies, if applicable, by the assessor's parcel number, and total  
3 assessed value of the mining operation.

4 (11) The approximate permitted size of the mining operation  
5 subject to Chapter 9 (commencing with Section 2710), in acres.

6 (12) The approximate total acreage of land newly disturbed by  
7 the mining operation during the previous calendar year.

8 (13) The approximate total of disturbed acreage reclaimed  
9 during the previous calendar year.

10 (14) The approximate total unreclaimed disturbed acreage  
11 remaining as of the end of the calendar year.

12 (15) The total production for each mineral commodity  
13 produced during the previous year.

14 (16) A copy of any approved reclamation plan and any  
15 amendments or conditions of approval to any existing  
16 reclamation plan approved by the lead agency.

17 (b) (1) Every year, not later than the date established by the  
18 director, the person submitting the report pursuant to subdivision  
19 (a) shall forward to the lead agency, upon forms furnished by the  
20 board, a report that provides all of the information specified in  
21 paragraphs (1) to ~~(14)~~ (16), inclusive, of subdivision (a).

22 (2) *The owner or operator of a mining operation shall allow*  
23 *access to the property to any governmental agency or the agent*  
24 *of any company providing financial assurances in connection*  
25 *with the reclamation plan, in order that the reclamation can be*  
26 *carried out by the entity or company, in accordance with the*  
27 *provisions of the reclamation plan.*

28 (c) Subsequent reports shall include only changes in the  
29 information submitted for the items described in subdivision (a),  
30 except that, instead of the approved reclamation plan, the reports  
31 shall include any reclamation plan amendments approved during  
32 the previous year. The reports shall state whether review of a  
33 reclamation plan, financial assurances, or an interim management  
34 plan is pending under subdivision (b), (c), (d), or (h) of Section  
35 2770, or whether an appeal before the board or lead agency  
36 governing body is pending under subdivision (e) or (h) of Section  
37 2770. The director shall notify the person submitting the report  
38 and the owner's designated agent in writing that the report and  
39 the fee required pursuant to subdivision (d) have been received,  
40 specify the mining operation's mine number if one has not been



1 issued by the Bureau of Mines, and notify the person and agent  
2 of any deficiencies in the report within 90 days of receipt. That  
3 person or agent shall have 30 days from receipt of the  
4 notification to correct the noted deficiencies and forward the  
5 revised reports to the director and the lead agency. Any person  
6 who fails to comply with this section, or knowingly provides  
7 incorrect or false information in reports required by this section,  
8 may be subject to an administrative penalty as provided in  
9 subdivision (c) of Section 2774.1.

10 (d) (1) The board shall impose, by regulation, pursuant to  
11 paragraph (2), an annual reporting fee on, and method for  
12 collecting annual fees from, each active or idle mining operation.  
13 The maximum fee for any single mining operation may not  
14 exceed four thousand dollars (\$4,000) annually and may not be  
15 less than one hundred dollars (\$100) annually, as adjusted for the  
16 cost of living as measured by the California Consumer Price  
17 Index for all urban consumers, calendar year averages, using the  
18 percentage change in the previous year, beginning with the  
19 2005–06 fiscal year and annually thereafter.

20 (2) (A) The board shall adopt, by regulation, a schedule of  
21 fees authorized under paragraph (1) to cover the department's  
22 cost in carrying out this section and Chapter 9 (commencing with  
23 Section 2710), as reflected in the Governor's Budget, and may  
24 adopt those regulations as emergency regulations. In establishing  
25 the schedule of fees to be paid by each active and idle mining  
26 operation, the fees shall be calculated on an equitable basis  
27 reflecting the size and type of operation. The board shall also  
28 consider the total assessed value of the mining operation, the  
29 acreage disturbed by mining activities, and the acreage subject to  
30 the reclamation plan.

31 (B) Regulations adopted pursuant to this subdivision shall be  
32 adopted by the board in accordance with Chapter 3.5  
33 (commencing with Section 11340) of Part 1 of Division 3 of Title  
34 2 of the Government Code. The adoption of any emergency  
35 regulations pursuant to this subdivision shall be considered  
36 necessary to address an emergency and shall be considered by  
37 the Office of Administrative Law to be necessary for the  
38 immediate preservation of the public peace, health, safety, and  
39 general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of three million five hundred thousand dollars (\$3,500,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005–06 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Sections 2796.5 and 2797.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 ½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" ~~has the same meaning as~~ *means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714.* For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated

1 production of not less than three mining operations. If the  
2 production figure for any lead agency would disclose the  
3 production, reserves, or rate of depletion of less than three  
4 mining operations or otherwise permit the reasonable inference  
5 of the production, reserves, or rate of depletion of any  
6 identifiable mining operation, that figure shall be combined with  
7 the same figure of not less than two other lead agencies without  
8 regard to the location of the lead agencies. The bulletin shall be  
9 published annually by June 30 or as soon thereafter as  
10 practicable.

11 *(h) The approval of a form by the board pursuant to this*  
12 *section is not the adoption of a regulation for purposes of*  
13 *Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
14 *Division 3 of Title 2 of the Government Code and is not subject*  
15 *to that chapter.*

16 *SEC. 14. Section 2692 of the Public Resources Code is*  
17 *amended to read:*

18 2692. (a) It is the intent of the Legislature to provide for a  
19 statewide seismic hazard mapping and technical advisory  
20 program to assist cities and counties in fulfilling their  
21 responsibilities for protecting the public health and safety from  
22 the effects of strong ground shaking, liquefaction, landslides, or  
23 other ground failure and other seismic hazards caused by  
24 earthquakes.

25 (b) It is further the intent of the Legislature that maps and  
26 accompanying information provided pursuant to this chapter be  
27 made available to local governments for planning and  
28 development purposes.

29 (c) It is further the intent of the Legislature that the ~~Division of~~  
30 ~~Mines and Geology~~ *California Geological Survey*, in  
31 implementing this chapter, shall, to the extent possible,  
32 coordinate its activities with, and use existing information  
33 generated from, the earthquake fault zones mapping program  
34 pursuant to Chapter 7.5 (commencing with Section 2621), ~~the~~  
35 ~~landslide hazard identification program pursuant to Chapter 7.7~~  
36 ~~(commencing with Section 2670)~~, and the inundation maps  
37 prepared pursuant to Section 8589.5 of the Government Code.

38 *SEC. 15. Section 2705.5 of the Public Resources Code is*  
39 *amended to read:*

1     2705.5. ~~The Division of Mines and Geology California~~  
2     *Geological Survey* shall advise counties and cities as to that  
3     portion of the total fees allocated to the Strong-Motion  
4     Instrumentation and Seismic Hazards Mapping Fund, so that this  
5     information may be provided to building permit applicants.

6     *SEC. 16. Section 2714 of the Public Resources Code is*  
7     *amended to read:*

8     2714. This chapter does not apply to any of the following  
9     activities:

10    (a) Excavations or grading conducted for farming or ~~onsite~~  
11    ~~construction or the immediate excavation or grading of lands~~  
12    ~~affected by a flood or natural disaster~~ for the purpose of  
13    ~~restoring land following a flood or natural disaster~~ *those lands to*  
14    *their prior condition.*

15    (b) Onsite excavation and onsite earthmoving activities that  
16    are an integral and necessary part of a construction project *and*  
17    that are undertaken to prepare a site for construction of  
18    structures, *or* landscaping, ~~or other land improvements~~  
19    *associated with those structures*, including the related  
20    excavation, grading, compaction, or the creation of fills, road  
21    cuts, and embankments, whether or not surplus materials are  
22    exported from the site, subject to all of the following conditions:

23    (1) All required permits for the construction, landscaping, or  
24    related land improvements have been approved by a public  
25    agency in accordance with applicable provisions of state law and  
26    locally adopted plans and ordinances, including, but not limited  
27    to, Division 13 (commencing with Section 21000).

28    (2) The lead agency's approval of the construction project  
29    included consideration of the onsite excavation and onsite  
30    earthmoving activities pursuant to Division 13 (commencing  
31    with Section 21000).

32    (3) The approved construction project is consistent with the  
33    general plan or zoning of the site.

34    (4) Surplus materials shall not be exported from the site unless  
35    and until actual construction work has commenced and shall  
36    cease if it is determined that construction activities have  
37    terminated, have been indefinitely suspended, or are no longer  
38    being actively pursued.

39    (c) Operation of a plant site used for mineral processing,  
40    including associated onsite structures, equipment, machines,

1 tools, or other materials, including the onsite stockpiling and  
2 onsite recovery of mined materials, subject to all of the following  
3 conditions:

4 (1) The plant site is located on lands designated for industrial  
5 or commercial uses in the applicable county or city general plan.

6 (2) The plant site is located on lands zoned industrial or  
7 commercial, or are contained within a zoning category intended  
8 exclusively for industrial activities by the applicable city or  
9 county.

10 (3) None of the minerals being processed are being extracted  
11 onsite.

12 (4) All reclamation work has been completed pursuant to the  
13 approved reclamation plan for any mineral extraction activities  
14 that occurred onsite after January 1, 1976.

15 (d) Prospecting for, or the extraction of, minerals for  
16 commercial purposes—~~and where the removal of overburden in~~  
17 ~~total amounts of or mineral product totals less than 1,000 cubic~~  
18 ~~yards in any one location—of, and the total surface area~~  
19 ~~distributed is less than one acre or less in extent.~~

20 (e) Surface mining operations that are required by federal law  
21 in order to protect a mining claim, if those operations are  
22 conducted solely for that purpose.

23 (f) Any other surface mining operations that the board, as  
24 defined by Section 2001, determines to be of an infrequent nature  
25 and which involve only minor surface disturbances.

26 (g) The solar evaporation of sea water or bay water for the  
27 production of salt and related minerals.

28 (h) Emergency excavations or grading conducted by the  
29 Department of Water Resources or the Reclamation Board for the  
30 purpose of averting, alleviating, repairing, or restoring damage to  
31 property due to imminent or recent floods, disasters, or other  
32 emergencies.

33 (i) (1) Surface mining operations conducted on lands owned  
34 or leased, or upon which easements or rights-of-way have been  
35 obtained, by the Department of Water Resources for the purpose  
36 of the State Water Resources Development System or flood  
37 control, and surface mining operations on lands owned or leased,  
38 or upon which easements or rights-of-way have been obtained,  
39 by the Reclamation Board for the purpose of flood control, if the  
40 Department of Water Resources adopts, after submission to and

1 consultation with, the Department of Conservation, a reclamation  
2 plan for lands affected by these activities, and those lands are  
3 reclaimed in conformance with the standards specified in  
4 regulations of the board adopted pursuant to this chapter. The  
5 Department of Water Resources shall provide an annual report to  
6 the Department of Conservation by the date specified by the  
7 Department of Conservation on these mining activities.

8 (2) Nothing in this subdivision shall require the Department of  
9 Water Resources or the Reclamation Board to obtain a permit or  
10 secure approval of a reclamation plan from any city or county in  
11 order to conduct surface mining operations specified in  
12 paragraph (1). Nothing in this subdivision shall preclude the  
13 bringing of an enforcement action pursuant to Section 2774.1, if  
14 it is determined that a surface mine operator, acting under  
15 contract with the Department of Water Resources or the  
16 Reclamation Board on lands other than those owned or leased, or  
17 upon which easements or rights-of-way have been obtained, by  
18 the Department of Water Resources or the Reclamation Board, is  
19 otherwise not in compliance with this chapter.

20 (j) (1) Excavations or grading for the exclusive purpose of  
21 obtaining materials for roadbed construction and maintenance  
22 conducted in connection with timber operations or forest  
23 management on land owned by the same person or entity. This  
24 exemption is limited to excavation and grading that is conducted  
25 adjacent to timber operation or forest management roads and  
26 shall not apply to onsite excavation or grading that occurs within  
27 100 feet of a Class One watercourse or 75 feet of a Class Two  
28 watercourse, or to excavation for materials that are, or have been,  
29 sold for commercial purposes.

30 (2) This exemption shall be available only if slope stability  
31 and erosion are controlled in accordance with subdivision (f) of  
32 Section 3704 and subdivision (d) of Section 3706 of Title 14 of  
33 the California Code of Regulations and, upon closure of the site,  
34 the person closing the site implements, where necessary,  
35 revegetation measures and postclosure uses in consultation with  
36 the Department of Forestry and Fire Protection.

37 (k) Excavations, grading, or other earthmoving activities in an  
38 oil or gas field that are integral to, and necessary for, ongoing  
39 operations for the extraction of oil or gas that comply with all of  
40 the following conditions:

1 (1) The operations are being conducted in accordance with  
2 Division 3 (commencing with Section 3000).

3 (2) The operations are consistent with any general plan or  
4 zoning applicable to the site.

5 (3) The earthmoving activities are within oil or gas field  
6 properties under a common owner or operator.

7 (4) No excavated materials are sold for commercial purposes.

8 *SEC. 17. Section 2715 of the Public Resources Code is*  
9 *amended to read:*

10 2715. No provision of this chapter or any ruling, requirement,  
11 or policy of the board is a limitation on any of the following:

12 (a) On the police power of any city or county or on the power  
13 of any city or county to declare, prohibit, and abate nuisances.

14 (b) On the power of the Attorney General, at the request of the  
15 board, or upon his *or her* own motion, to bring an action in the  
16 name of the people of the State of California to enjoin any  
17 pollution or nuisance.

18 (c) On the power of any state agency in the enforcement or  
19 administration of any provision of law which it is specifically  
20 authorized or required to enforce or administer.

21 (d) On the right of any person to maintain at any time any  
22 appropriate action for relief against any private nuisance as  
23 defined in Part 3 (commencing with Section 3479) of Division 4  
24 of the Civil Code or for any other private relief.

25 (e) On the power of any lead agency to adopt policies,  
26 standards, or regulations imposing additional requirements on  
27 any person if the requirements do not prevent the person from  
28 complying with the provisions of this chapter.

29 (f) On the power of any city or county to regulate the use of  
30 buildings, structures, and land as between industry, business,  
31 residences, open space (including agriculture, recreation, the  
32 enjoyment of scenic beauty, and the use of natural resources),  
33 and other purposes, *except as provided in subdivision (c) of*  
34 *Section 2763.*

35 *SEC. 18. Section 2716 of the Public Resources Code is*  
36 *amended to read:*

37 2716. (a) Any *interested* person may commence an action on  
38 his or her own behalf against the board, the State Geologist, or  
39 the director for a writ of mandate pursuant to Chapter 2  
40 (commencing with Section 1084) of Title 1 of Part 3 of the Code



1 of Civil Procedure to compel the board, the State Geologist, or  
2 the director to carry out any duty imposed upon them pursuant to  
3 this chapter.

4 *(b) For purposes of this section, "person" means an*  
5 *individual, firm, association, corporation, organization, or*  
6 *partnership, or a city, county, district, or the state or any*  
7 *department or agency of the state.*

8 *SEC. 19. Section 2728 of the Public Resources Code is*  
9 *amended to read:*

10 2728. "Lead agency" means the city, county, San Francisco  
11 Bay Conservation and Development Commission, or the board  
12 which has the principal responsibility for approving a ~~surface~~  
13 ~~mining operation or~~ reclamation plan pursuant to this chapter.

14 *SEC. 20. Section 2761 of the Public Resources Code is*  
15 *amended to read:*

16 2761. (a) On or before January 1, 1977, and, as a minimum,  
17 after the completion of each decennial census, the Office of  
18 Planning and Research shall identify portions of the following  
19 areas within the state ~~which~~ that are urbanized or are subject to  
20 urban expansion or other irreversible land uses ~~which~~ that would  
21 preclude mineral extraction:

22 (1) Standard metropolitan statistical areas and ~~such~~ other areas  
23 for which information is readily available.

24 (2) Other areas as may be requested by the board.

25 (b) In accordance with a time schedule, and based upon  
26 guidelines adopted by the board, the State Geologist shall  
27 classify, on the basis solely of geologic factors, and without  
28 regard to existing land use and land ownership, the areas  
29 identified by the Office of Planning and Research, any area for  
30 which classification has been requested by a petition which has  
31 been accepted by the board, or any other areas as may be  
32 specified by the board, as one of the following:

33 (1) ~~Areas containing little or no~~ An area that contains mineral  
34 deposits and is not of regional or statewide significance.

35 (2) ~~Areas containing significant~~ An area that contains mineral  
36 deposits and is not of regional or statewide significance.

37 (3) Areas containing mineral deposits, the significance of  
38 which requires further evaluation.

1 (c) The State Geologist shall require the petitioner to pay the  
2 reasonable costs of classifying an area for which classification  
3 has been requested by the petitioner.

4 ~~(e)–~~

5 (d) The State Geologist shall transmit the information to the  
6 board for incorporation into the state policy and for transmittal to  
7 lead agencies.

8 *SEC. 21. Section 2763 of the Public Resources Code is*  
9 *amended to read:*

10 2763. (a) If an area is designated by the board as an area of  
11 regional significance, and the lead agency either has designated  
12 that area in its general plan as having important minerals to be  
13 protected pursuant to subdivision (a) of Section 2762, or  
14 otherwise has not yet acted pursuant to subdivision (a) of Section  
15 2762, then prior to permitting a use ~~which~~ *that* would threaten  
16 the potential to extract minerals in that area, the lead agency shall  
17 prepare a statement specifying its reasons for permitting the  
18 proposed use, in accordance with ~~the requirements set forth in~~  
19 subdivision (d) of Section 2762. Lead agency land use decisions  
20 involving areas designated as being of regional significance shall  
21 be in accordance with the lead agency's mineral resource  
22 management policies and shall also, in balancing mineral values  
23 against alternative land uses, consider the importance of these  
24 minerals to their market region as a whole and not just their  
25 importance to the lead agency's area of jurisdiction.

26 (b) If an area is designated by the board as an area of statewide  
27 significance, and the lead agency either has designated that area  
28 in its general plan as having important minerals to be protected  
29 pursuant to subdivision (a) of Section 2762, or otherwise has not  
30 yet acted pursuant to subdivision (a) of Section 2762, then prior  
31 to permitting a use which would threaten the potential to extract  
32 minerals in that area, the lead agency shall prepare a statement  
33 specifying its reasons for permitting the proposed use, in  
34 accordance with ~~the requirements set forth in~~ subdivision (d) of  
35 Section 2762. Lead agency land use decisions involving areas  
36 designated as being of statewide significance shall be in  
37 accordance with the lead agency's mineral resource management  
38 policies and shall also, in balancing mineral values against  
39 alternative land uses, consider the importance of the mineral  
40 resources to the state and nation as a whole.

1 (c) If an area is classified by the State Geologist or designated  
2 by the board as an area that contains mineral deposits and is an  
3 area of regional or statewide significance, a city or county shall  
4 not, in either its general plan, or in its resource management  
5 plan, allow the specific area to be used for, or permit a use, that  
6 is inconsistent with the exploitation or development of that area  
7 for mineral excavation and production, until commercial  
8 production of that area is completed, except for uses that would  
9 not limit or prohibit mineral exploitation or development in that  
10 area in the future. If exploitation or development is completed on  
11 a part of that area, and that part has been reclaimed pursuant to  
12 its approved reclamation plan, the city or county may allow that  
13 part to be utilized for a use not involving mineral exploitation or  
14 development, if mineral exploitation or development is allowed  
15 on the remainder of the designated area.

16 SEC. 22. Section 2770 of the Public Resources Code is  
17 amended to read:

18 2770. (a) Except as provided in this section, no person shall  
19 conduct surface mining operations unless a permit is obtained  
20 from, a reclamation plan has been submitted to and approved by,  
21 and financial assurances for reclamation have been approved by,  
22 the lead agency for the operation pursuant to this article.

23 (b) Any person with an existing surface mining operation who  
24 has vested rights pursuant to Section 2776 and who does not have  
25 an approved reclamation plan shall submit a reclamation plan to  
26 the lead agency not later than March 31, 1988. If a reclamation  
27 plan application is not on file by March 31, 1988, the  
28 continuation of the surface mining operation is prohibited until a  
29 reclamation plan is submitted to the lead agency. ~~For purposes of~~  
30 ~~this subdivision, reclamation plans may consist of all or the~~  
31 ~~appropriate sections of any plans or written agreements~~  
32 ~~previously approved by the lead agency or another agency,~~  
33 ~~together with any additional documents needed to substantially~~  
34 ~~meet the requirements of Sections 2772 and 2773 and the lead~~  
35 ~~agency surface mining ordinance adopted pursuant to subdivision~~  
36 ~~(a) of Section 2774, provided that all documents which together~~  
37 ~~were proposed to serve as the reclamation plan are submitted for~~  
38 ~~approval to the lead agency in accordance with this chapter.~~

39 (c) If a person with an existing surface mining operation has  
40 received lead agency approval of its financial assurances for

1 reclamation prior to January 1, 1991, the lead agency shall  
2 administratively review those existing financial assurances in  
3 accordance with subdivision (d) prior to January 1, 1992. The  
4 review of existing financial assurances shall not be considered a  
5 project for purposes of Division 13 (commencing with Section  
6 21000). Any person with an existing surface mining operation  
7 which does not have financial assurances that received lead  
8 agency approval prior to January 1, 1991, shall submit financial  
9 assurances for reclamation for review in accordance with  
10 subdivision (d).

11 ~~(d) The lead agency's review of reclamation plans submitted~~  
12 ~~pursuant to subdivision (b) or of financial assurances pursuant to~~  
13 ~~subdivision (c) is limited to whether the plan or the financial~~  
14 ~~assurances substantially meet the applicable requirements of~~  
15 ~~Sections 2772, 2773, and 2773.1, and the lead agency surface~~  
16 ~~mining ordinance adopted pursuant to subdivision (a) of Section~~  
17 ~~2774, but, in any event, the lead agency shall require that~~  
18 ~~financial assurances for reclamation be sufficient to perform~~  
19 ~~reclamation of lands remaining disturbed. Reclamation plans or~~  
20 ~~financial assurances determined to substantially meet these~~  
21 ~~requirements shall be approved by the lead agency for purposes~~  
22 ~~of this chapter. Reclamation plans or financial assurances~~  
23 ~~determined not to substantially meet these requirements shall be~~  
24 ~~returned to the operator within 60 days. The operator has 60 days~~  
25 ~~to revise the plan or financial assurances to address identified~~  
26 ~~deficiencies, at which time the revised plan or financial~~  
27 ~~assurances shall be returned to the lead agency for review and~~  
28 ~~approval. Except as specified in subdivision (c) or (i), unless the~~  
29 ~~operator has filed on or before July 1, 1990, an appeal pursuant~~  
30 ~~to subdivision (c) with regard to nonapproval of the reclamation~~  
31 ~~plan, or has filed on or before January 1, 1994, an appeal~~  
32 ~~pursuant to subdivision (c) with regard to nonapproval of~~  
33 ~~financial assurances, and that appeal is pending before the board,~~  
34 ~~the continuation of the surface mining operation is prohibited~~  
35 ~~until a reclamation plan and financial assurances for reclamation~~  
36 ~~are approved by the lead agency.~~

37 ~~(e) Any person who, based on the evidence of the record, can~~  
38 ~~substantiate that a lead agency has either (1) failed to act~~  
39 ~~according to due process or has relied on considerations not~~  
40 ~~related to the specific applicable requirements of Sections 2772,~~

1 ~~2773, and 2773.1, and the lead agency surface mining ordinance~~  
2 ~~adopted pursuant to subdivision (a) of Section 2774, in reaching~~  
3 ~~a decision to deny approval of a reclamation plan or financial~~  
4 ~~assurances for reclamation, (2) failed to act within a reasonable~~  
5 ~~time of receipt of a completed application, or (3) failed to review~~  
6 ~~and approve reclamation plans or financial assurances as required~~  
7 ~~by subdivisions (c) and (d), may appeal that action or inaction to~~  
8 ~~the board.~~

9 *(d) The lead agency's review of a reclamation plan or*  
10 *financial assurance shall be limited to whether the reclamation*  
11 *plan or financial assurance meets the requirements of this*  
12 *chapter, the state regulations adopted by the board pursuant to*  
13 *this chapter, and the lead agency's surface mining ordinance.*

14 *(e) An affected mining operator may file an appeal with the*  
15 *board, other than in cases where the board is a lead agency, if he*  
16 *or she alleges that the lead agency has failed to act, or has acted*  
17 *in violation of this chapter and the state's policies adopted by the*  
18 *board in approving or failing to approve a reclamation plan or*  
19 *financial assurance. Any appeal shall be made within 30 days of*  
20 *an approval or disapproval of a reclamation plan or financial*  
21 *assurance by the lead agency, or if the allegation is that the local*  
22 *lead agency has failed to act on a request for approval of a*  
23 *reclamation plan or financial assurance, within 180 days from*  
24 *the date a complete application for the approval was filed with*  
25 *the local lead agency.*

26 *(f) The board may decline to hear an appeal if it determines*  
27 *that the appeal raises no substantial issues related to the lead*  
28 *agency's review pursuant to this section.*

29 ~~(g) Appeals that the board does not decline to hear shall be~~  
30 ~~scheduled and heard at a public hearing within 45 days of the~~  
31 ~~filing of the appeal, or any longer period as may be mutually~~  
32 ~~agreed upon by the board and the person filing the appeal. In~~  
33 ~~hearing an appeal, the board shall only determine whether the~~  
34 ~~reclamation plan or the financial assurances substantially meet~~  
35 ~~the applicable requirements of Sections 2772, 2773, 2773.1, and~~  
36 ~~the lead agency surface mining ordinance adopted pursuant to~~  
37 ~~subdivision (a) of Section 2774. A reclamation plan or financial~~  
38 ~~assurances determined to meet these requirements shall be~~  
39 ~~approved. A reclamation plan or financial assurances determined~~  
40 ~~not to meet these requirements shall be returned to the person~~

~~filing the appeal with a notice of deficiencies, who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the board, to correct the noted deficiencies and submit the revised reclamation plan or the revised financial assurances to the lead agency for review and approval.~~

*(g) (1) Appeals that the board accepts for a hearing shall be scheduled for a public hearing within 180 days of the filing of the appeal.*

*(2) If the board is required to prepare, or causes to be prepared, a certified environmental impact report in connection with the appeal, the public hearing shall be held within one year of the date of the filing of the appeal. For the purposes of this paragraph, the board shall rely on the environmental documentation prepared on behalf of the lead agency if it finds that the documentation is adequate.*

*(3) In the event of the filing of an appeal, the lead agency shall prepare, certify, and provide to the board and the appellant, a record of the proceedings, if any, before the local lead agency, relating to the issues for which the appeal is sought. All documents prepared by the local lead agency pursuant to Division 13 (commencing with Section 21000) shall be part of the record on appeal. The reasonable costs of preparing the record on appeal shall be borne by the appellant.*

*(4) Upon completion of a hearing, the board shall affirm the lead agency's decision if the decision is supported by substantial evidence in light of the whole record. If the board determines that the lead agency's decision is not supported by substantial evidence in light of the whole record, the board shall approve, with or without modifications, the reclamation plan or financial assurances subject to those conditions it deems appropriate, taking into account any conditions proposed by the lead agency.*

*(5) The board shall provide notice of a public hearing required by this subdivision consistent with the notice provisions set forth in Section 65091 of the Government Code, including providing notice to the lead agency.*

*(h) (1) Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval, an interim management plan. The review and approval of an interim*

1 management plan shall not be considered a project for purposes  
2 of Division 13 (commencing with Section 21000). The approved  
3 interim management plan shall be considered an amendment to  
4 the surface mining operation's approved reclamation plan, for  
5 purposes of this chapter. The interim management plan shall  
6 provide measures the operator will implement to maintain the site  
7 in compliance with this chapter, including, but not limited to, all  
8 permit conditions.

9 (2) The interim management plan may remain in effect for a  
10 period not to exceed five years, at which time the lead agency  
11 shall do one of the following:

12 (A) Renew the interim management plan for another period  
13 not to exceed five years, if the lead agency finds that the surface  
14 mining operator has complied fully with the interim management  
15 plan.

16 (B) Require the surface mining operator to commence  
17 reclamation in accordance with its approved reclamation plan.

18 (3) The financial assurances required by Section 2773.1 shall  
19 remain in effect during the period that the surface mining  
20 operation is idle. If the surface mining operation is still idle after  
21 the expiration of its interim management plan, the surface mining  
22 operation shall commence reclamation in accordance with its  
23 approved reclamation plan.

24 (4) Within 60 days of the receipt of the interim management  
25 plan, or a longer period mutually agreed upon by the lead agency  
26 and the operator, the lead agency shall review and approve the  
27 plan in accordance with its ordinance adopted pursuant to  
28 subdivision (a) of Section 2774, so long as the plan satisfies the  
29 requirements of this subdivision, and so notify the operator in  
30 writing. Otherwise, the lead agency shall notify the operator in  
31 writing of any deficiencies in the plan. The operator shall have  
32 30 days, or a longer period mutually agreed upon by the operator  
33 and the lead agency, to submit a revised plan.

34 (5) The lead agency shall approve or deny approval of the  
35 revised interim management plan within 60 days of receipt. If the  
36 lead agency denies approval of the revised interim management  
37 plan, the operator may appeal that action to the lead agency's  
38 governing body, which shall schedule a public hearing within 45  
39 days of the filing of the appeal, or any longer period mutually  
40 agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency, or an appeal is pending before the lead agency's governing body, a surface mining operation which remains idle for over one year after becoming idle as defined in Section 2727.1 without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) Any enforcement action which may be brought against a surface mining operation for operating without an approved reclamation plan, financial assurance, or interim management plan, shall be held in abeyance pending review pursuant to subdivision (b), (c), (d), or (h) or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

*SEC. 23. Section 2772.7 is added to the Public Resources Code, to read:*

*2772.7. A lead agency, upon approval of a reclamation plan or an amendment to a reclamation plan, shall record a "Notice of Reclamation Plan Approval" with the county recorder. The notice shall read: "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the \_\_\_\_\_, a copy of which is on file with the \_\_\_\_\_."*

*SEC. 24. Section 2773.1 of the Public Resources Code is amended to read:*

2773.1. (a) Lead agencies shall require financial assurances of each surface mining operation to ensure *that* reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:

(1) Financial assurances may take the form of surety bonds executed by an admitted surety insurer, as defined in subdivision (a) of Section 995.120 of the Code of Civil Procedure, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the board pursuant to subdivision (e), ~~which~~ *that* the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.



1 (2) The financial assurances shall remain in effect for the  
2 duration of the surface mining operation and any additional  
3 period until reclamation is completed.

4 (3) The amount of financial assurances required of a surface  
5 mining operation for any one year shall be adjusted annually to  
6 account for new lands disturbed by surface mining operations,  
7 inflation, and reclamation of lands accomplished in accordance  
8 with the approved reclamation plan.

9 (4) The financial assurances shall be made payable to the lead  
10 agency and the department. Financial assurances that were  
11 approved by the lead agency prior to January 1, 1993, and were  
12 made payable to the State Geologist shall be considered payable  
13 to the department for purposes of this chapter. However, if a  
14 surface mining operation has received approval of its financial  
15 assurances from a public agency other than the lead agency, the  
16 lead agency shall deem those financial assurances adequate for  
17 purposes of this section, or shall credit them toward fulfillment of  
18 the financial assurances required by this section, if they are made  
19 payable to the public agency, the lead agency, and the  
20 department and otherwise meet the requirements of this section.  
21 In any event, if a lead agency and one or more public agencies  
22 exercise jurisdiction over a surface mining operation, the total  
23 amount of financial assurances required by the lead agency and  
24 the public agencies for any one year shall not exceed that amount  
25 which is necessary to perform reclamation of lands remaining  
26 disturbed. For purposes of this paragraph, a “public agency” may  
27 include a federal agency.

28 (b) ~~(1) If the lead agency or the board, following a public~~  
29 ~~hearing, determines that the operator is financially incapable of~~  
30 ~~performing reclamation in accordance with its approved~~  
31 ~~reclamation plan, or has abandoned its surface mining operation~~  
32 ~~without commencing completing reclamation, either the lead~~  
33 ~~agency or the director shall do all of the following: may take~~  
34 ~~appropriate action to require the forfeiture of the financial~~  
35 ~~assurances relating to the reclamation of the mining operation.~~

36 ~~(1) Notify the operator~~

37 ~~(2) The forfeiture provided for in paragraph (1) shall not~~  
38 ~~occur until the mining operator has first been given a 10-day~~  
39 ~~written notice, by personal service or certified mail—that, of the~~  
40 ~~intended forfeiture, and an opportunity to discuss his or her~~

1 *financial situation and the proposed forfeiture with the lead*  
2 *agency or the director intends to take appropriate action to forfeit*  
3 *the financial assurances and specify the reasons for so doing*  
4 *director, as appropriate. However, the 10-day notice period shall*  
5 *not be required as a condition to forfeiting these financial*  
6 *assurances, if any financial assurances would otherwise expire*  
7 *or cease to be effective during the 10-day period or within five*  
8 *days after the 10-day period.*

9 ~~(2) Allow the operator 60 days to commence or cause the~~  
10 ~~commencement of reclamation in accordance with its approved~~  
11 ~~reclamation plan and require that reclamation be completed~~  
12 ~~within the time limits specified in the approved reclamation plan~~  
13 ~~or some other time period mutually agreed upon by the lead~~  
14 ~~agency or the director and the operator.~~

15 ~~(3) Proceed to take appropriate action to require forfeiture of~~  
16 ~~the financial assurances if the operator does not substantially~~  
17 ~~comply with paragraph (2).~~

18 ~~(4)~~

19 (3) Use the proceeds from the forfeited financial assurances to  
20 conduct and complete reclamation in accordance with the  
21 approved reclamation plan. In no event shall the financial  
22 assurances be used for any other purpose. The operator is  
23 responsible for the costs of conducting and completing  
24 reclamation in accordance with the approved reclamation plan  
25 which are in excess of the proceeds from the forfeited financial  
26 assurances.

27 (c) Financial assurances shall no longer be required of a  
28 surface mining operation, and shall be released, upon written  
29 notification by the lead agency, which shall be forwarded to the  
30 operator and the director, that reclamation has been completed in  
31 accordance with the approved reclamation plan. If a mining  
32 operation is sold or ownership is transferred to another person,  
33 the existing financial assurances shall remain in force and shall  
34 not be released by the lead agency until *the new owner of the*  
35 *mining operation assumes in writing the obligations to complete*  
36 *reclamation in accordance with the terms of any existing*  
37 *reclamation plan approved for the operation, and posts sufficient*  
38 *new financial assurances are secured from the new owner and*  
39 *have been approved by the lead agency in accordance with*  
40 *Section 2770, pursuant to this chapter, as may be required by the*

1 *lead agency. No transferee of any mining operation shall be*  
2 *recognized as a mining operator for the mining operation in*  
3 *question, until the occurrence of both these conditions.*

4 (d) (1) The lead agency shall have primary responsibility to  
5 seek forfeiture of financial assurances and to reclaim mine sites  
6 ~~under subdivision (b) mined lands pursuant to this chapter.~~  
7 However, ~~except in cases where the board is not the lead agency~~  
8 ~~pursuant to Section 2774.4 in which case no notice need be~~  
9 ~~given, the director may not act to seek forfeiture of financial~~  
10 ~~assurances and reclaim mine sites pursuant to subdivision (b)~~  
11 ~~only if both of the following occurs: this chapter until the~~  
12 ~~director has first given notice to the lead agency that the director~~  
13 ~~has determined to seek forfeiture of the financial assurances, and~~  
14 ~~unless the lead agency has done so within 10 days from the date~~  
15 ~~of that notice. The director shall specify in that notice that he or~~  
16 ~~she has determined that the mining operator is financially~~  
17 ~~incapable of completing reclamation or has abandoned the~~  
18 ~~mining operation.~~

19 ~~(1) The financial incapability of the operator or the~~  
20 ~~abandonment of the mining operation has come to the attention~~  
21 ~~of the director.~~

22 ~~(2) The lead agency has been notified in writing by the~~  
23 ~~director of the financial incapability of the operator or the~~  
24 ~~abandonment of the mining operation for at least 15 days, and~~  
25 ~~has not taken appropriate measures to seek forfeiture of the~~  
26 ~~financial assurances and reclaim the mine site; and one of the~~  
27 ~~following has occurred:~~

28 ~~(A) The lead agency has been notified in writing by the~~  
29 ~~director that failure to take appropriate measures to seek~~  
30 ~~forfeiture of the financial assurances or to reclaim the mine site~~  
31 ~~shall result in actions being taken against the lead agency under~~  
32 ~~Section 2774.4.~~

33 ~~(B) The~~

34 ~~(2) The director shall not be required to give the lead agency~~  
35 ~~that notice if the director determines that there is a violation of~~  
36 ~~this chapter by the mining operator that amounts to an imminent~~  
37 ~~and substantial endangerment danger to the public health, safety,~~  
38 ~~or to the environment, or, if the~~

39 ~~(C) The lead agency notifies has notified the director in~~  
40 ~~writing that its good faith attempts to seek that if is unable to~~

1 *successfully seek the forfeiture of the these* financial assurances  
2 *have not been successful.*

3 ~~The director shall comply with subdivision (b) in seeking~~  
4 ~~forfeiture of financial assurances and reclaiming mine sites.~~

5 (e) The board may adopt regulations specifying financial  
6 assurance mechanisms other than surety bonds, irrevocable  
7 letters of credit, and trust funds, which the board determines are  
8 reasonably available and adequate to ensure reclamation pursuant  
9 to this chapter, but these mechanisms may not include financial  
10 tests, or surety bonds executed by one or more personal sureties.

11 These mechanisms may include reclamation bond pool programs.  
12 (f) On or before March 1, 1993, the board shall adopt  
13 guidelines to implement this section. The guidelines are exempt  
14 from the requirements of Chapter 3.5 (commencing with Section  
15 11340) of Part 1 of Division 3 of Title 2 of the Government  
16 Code, and are not subject to review by the Office of  
17 Administrative Law.

18 *SEC. 25. Section 2773.2 of the Public Resources Code is*  
19 *repealed.*

20 ~~2773.2. (a) The Secretary of the Resources Agency shall~~  
21 ~~convene a multiagency task force that shall evaluate the~~  
22 ~~effectiveness of the Cache Creek Resource Management Plan in~~  
23 ~~achieving the plan's objectives concerning the rehabilitation and~~  
24 ~~restoration of Cache Creek and identify those aspects of the plan~~  
25 ~~that should be modified or eliminated to more effectively achieve~~  
26 ~~the goals of this chapter.~~

27 ~~(b) The task force shall consist of nine members as follows:~~

28 ~~(1) A representative of the department.~~

29 ~~(2) A representative of the Department of Fish and Game.~~

30 ~~(3) A representative of the State Water Resources Control~~  
31 ~~Board.~~

32 ~~(4) Six members appointed by the Secretary of the Resources~~  
33 ~~Agency. Of these six members, two shall be elected officials of a~~  
34 ~~city or county with active mining operations within its~~  
35 ~~jurisdiction, one of whom shall represent northern California~~  
36 ~~interests, and one of whom shall represent southern California~~  
37 ~~interests; one shall be a person currently engaged in in-stream~~  
38 ~~mining activities as an employee or owner of a mining operation;~~  
39 ~~one shall be a member of the State Mining and Geology Board;~~  
40 ~~and two shall be members of the scientific community who are~~

1 ~~affiliated with a California institution of higher education. The~~  
2 ~~representative of the department shall serve as the chairperson of~~  
3 ~~the task force.~~

4 ~~(e) The task force, not later than July 1, 2001, shall~~  
5 ~~recommend to the Secretary of the Resources Agency any~~  
6 ~~revisions to this chapter or any other provisions of law, including~~  
7 ~~regulations of the State Mining and Geology Board, that are~~  
8 ~~necessary to incorporate regional resource management plans in~~  
9 ~~the state's regulation of instream mine reclamation. The task~~  
10 ~~force recommendations shall, at a minimum, address all of the~~  
11 ~~following issues:~~

12 ~~(1) Flood control.~~

13 ~~(2) Stream bank and channel erosion control.~~

14 ~~(3) Slope stability.~~

15 ~~(4) Vegetation and revegetation.~~

16 ~~(5) The interrelationships of private and public land ownership~~  
17 ~~along and within streambed areas, including ownership rights~~  
18 ~~that are or may be "vested" as the term is used in Section 2776.~~

19 ~~(6) The provision of adequate financial assurances for~~  
20 ~~reclaiming mined areas.~~

21 ~~(7) The monitoring of compliance with qualitative and~~  
22 ~~quantitative measures to regulate mine reclamation on large~~  
23 ~~segments of streams and rivers.~~

24 ~~(8) Cumulative and site-specific issues related to resource~~  
25 ~~management for instream mine reclamation.~~

26 ~~(d) The department shall only convene the multiagency task~~  
27 ~~force required pursuant to subdivision (a) if the costs associated~~  
28 ~~with the operation of the task force will not diminish the~~  
29 ~~department's ability to provide reclamation plan review, financial~~  
30 ~~assurance review, and field inspections, undertake other~~  
31 ~~enforcement actions and provide local assistance to cities or~~  
32 ~~counties under this chapter.~~

33 *SEC. 26. Section 2773.2 is added to the Public Resources*  
34 *Code, to read:*

35 *2773.2. The mineral owner and owner of the surface estate, if*  
36 *legally entitled to do so, shall allow access to the property on*  
37 *which the mining operation is located to any governmental*  
38 *agency or the agent of any company providing financial*  
39 *assurances in connection with the reclamation plan and*  
40 *expending those financial assurances for reclamation, in order*

1 *that reclamation may be carried out by the entity or company, in*  
2 *accordance with the reclamation plan.*

3 *SEC. 27. Section 2774 of the Public Resources Code is*  
4 *amended to read:*

5 2774. (a) Every lead agency shall adopt ordinances in  
6 accordance with state policy ~~which~~ *that* establish procedures for  
7 the review and approval of reclamation plans and financial  
8 assurances and the issuance of a permit to conduct surface  
9 mining operations, except that any lead agency without an active  
10 surface mining operation in its jurisdiction may defer adopting an  
11 implementing ordinance until the filing of a permit application.  
12 The ordinances shall establish procedures requiring at least one  
13 public hearing and shall be periodically reviewed by the lead  
14 agency and revised, as necessary, to ensure that the ordinances  
15 continue to be in accordance with state policy.

16 (b) The lead agency shall conduct an inspection of a surface  
17 mining operation within six months of receipt by the lead agency  
18 of the surface mining operation's report submitted pursuant to  
19 Section 2207, solely to determine whether the surface mining  
20 operation is in compliance with this chapter. In no event shall a  
21 lead agency inspect a surface mining operation less than once in  
22 any calendar year. The lead agency may cause an inspection to  
23 be conducted by a state-registered geologist, state-registered civil  
24 engineer, state-licensed landscape architect, or state-registered  
25 forester, who is experienced in land reclamation and who has not  
26 been employed by a surface mining operation within the  
27 jurisdiction of the lead agency in any capacity during the  
28 previous 12 months. All inspections shall be conducted using a  
29 form developed by the department and approved by the board.  
30 The operator shall be solely responsible for the reasonable cost of  
31 the inspection. The lead agency shall notify the director within 30  
32 days of the date of completion of the inspection that the  
33 inspection has been conducted. The notice shall contain a  
34 statement regarding the surface mining operation's compliance  
35 with this chapter, shall include a copy of the completed  
36 inspection form, and shall specify which aspects of the surface  
37 mining operations, if any, are inconsistent with this chapter. If  
38 the surface mining operation has a review of its reclamation plan,  
39 financial assurances, or an interim management plan pending  
40 under subdivision (b), (c), (d), or (h) of Section 2770, or an

1 appeal pending before the board or lead agency governing body  
2 under subdivision (e) or (h) of Section 2770, the notice shall so  
3 indicate. The lead agency shall forward to the operator a copy of  
4 the notice, a copy of the completed inspection form, and any  
5 supporting documentation, including, but not limited to, any  
6 inspection report prepared by the geologist, civil engineer,  
7 landscape architect, or forester.

8 (c) Prior to approving a surface mining operation's  
9 reclamation plan, financial assurances, including existing  
10 financial assurances reviewed by the lead agency pursuant to  
11 subdivision (c) of Section 2770, or any amendments, the lead  
12 agency shall submit the plan, assurances, or amendments to the  
13 director for review. All documentation for that submission shall  
14 be submitted to the director at one time. When the lead agency  
15 submits a reclamation plan or plan amendments to the director  
16 for review, the lead agency shall also submit to the director, for  
17 use in reviewing the reclamation plan or plan amendments,  
18 information from any related document prepared, adopted, or  
19 certified pursuant to Division 13 (commencing with Section  
20 21000), and shall submit any other pertinent information. The  
21 lead agency shall certify to the director that the reclamation plan  
22 is in compliance with the applicable requirements of Article 9  
23 (commencing with Section 3500) of Chapter 8 of Division 2 of  
24 Title 14 of the California Code of Regulations in effect at the  
25 time that the reclamation plan is submitted to the director for  
26 review.

27 (d) (1) The director shall have 30 days from the date of  
28 receipt of a reclamation plan or plan amendments submitted  
29 pursuant to subdivision (c), and 45 days from the date of receipt  
30 of financial assurances submitted pursuant to subdivision (c), to  
31 prepare written comments, if the director so chooses. The lead  
32 agency shall evaluate any written comments received from the  
33 director relating to the reclamation plan, plan amendments, or  
34 financial assurances within a reasonable amount of time.

35 (2) The lead agency shall prepare a written response to the  
36 director's comments ~~describing the disposition submitted to it,~~  
37 ~~responding to each of the major issues raised. In particular, if the~~  
38 ~~lead agency's position is at variance with any of the~~  
39 ~~recommendations made, or objections raised, in the director's~~  
40 ~~comments, the written response shall address, in detail, why~~

~~specific comments and suggestions were not accepted. Copies of any written comments received and responses prepared by the lead agency shall be forwarded to the operator issues raised by the director's comments, and submit the response to the director at least 30 days prior to approval of the reclamation plan, plan amendment, or financial assurance. The lead agency's comments shall describe whether the recommendations of the director will be accepted by the lead agency, and if not, shall specify the reasons the lead agency declines to adopt them. The lead agency shall also give the director at least 30 days' notice of the time, place, and date of a hearing before the lead agency at which time the reclamation plan, plan amendment, or financial assurance is scheduled to be approved by the lead agency. If no hearing is required by this chapter or by a local ordinance or other state law, then the lead agency shall provide 30 days' notice to the director that it intends to approve the reclamation plan, plan amendment, or financial assurance.~~

(3) To the extent that there is a conflict between the comments of a trustee agency or a responsible agency that are based on the agency's statutory or regulatory authority and the comments of other commenting agencies which are received by the lead agency pursuant to Division 13 (commencing with Section 21000) regarding a reclamation plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(e) Lead agencies shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the director for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required under this section shall be cause for action under Section 2774.4.

SEC. 28. Section 2775 of the Public Resources Code is amended to read:



1 2775. (a) An applicant whose request for a permit to conduct  
2 surface mining operations in an area of statewide or regional  
3 significance has been denied by a lead agency, ~~or any person~~  
4 ~~who is aggrieved by the granting of a permit to conduct surface~~  
5 ~~mining operations in an area of statewide or regional~~  
6 ~~significance~~, may, within 15 days of exhausting his *or her* rights  
7 to appeal in accordance with the procedures of the lead agency,  
8 appeal to the board.

9 (b) The board may, by regulation, establish procedures for  
10 declining to hear appeals that it determines raise no substantial  
11 issues.

12 (c) (1) Appeals that the board does not decline to hear shall be  
13 scheduled and heard at a public hearing held within the  
14 jurisdiction of the lead agency ~~which that~~ processed the original  
15 application within ~~30~~ 180 days of the filing of the appeal, ~~or such~~  
16 ~~longer period as~~.

17 (2) *If the board is required to prepare, or causes to be*  
18 *prepared, a certified environmental impact report in connection*  
19 *with the appeal, the public hearing shall be held within one year*  
20 *of the date of the filing of the appeal or any longer period that*  
21 *may be mutually agreed upon by the board and the person filing*  
22 *the appeal. In any such action, the board shall not exercise its*  
23 *independent judgment on the evidence but shall only determine*  
24 *whether the decision of the lead agency is supported by*  
25 *substantial evidence in the light of the whole record appellant.*

26 (3) *If the board does not decline to hear the appeal, the lead*  
27 *agency shall prepare, certify, and provide to the board and the*  
28 *appellant, a record of the proceedings, if any, before the local*  
29 *lead agency, relating to the issues for which an appeal is sought.*  
30 *All documents prepared by the local lead agency pursuant to*  
31 *Division 13 (commencing with Section 21000) shall be part of*  
32 *the record on appeal. The reasonable costs of preparing the*  
33 *record on appeal shall be borne by the appellant. Upon*  
34 *completion of a hearing, the board shall affirm the lead agency's*  
35 *decision if, upon exercise of the board's independent judgment in*  
36 *reviewing the record, the board determines that the lead*  
37 *agency's decision is consistent with the provisions of this*  
38 *chapter, Division 13 (commencing with Section 21000), the*  
39 *state's policies adopted by the board for conducting surface*

1 *mining operations in areas of statewide or regional significance,*  
2 *and the lead agency's surface mining or land use ordinances.*

3 *(4) If the board determines the decision of the lead agency is*  
4 *not supported by substantial evidence in the light of the whole*  
5 *record it shall remand the appeal to the lead agency and the lead*  
6 *agency shall schedule a public hearing to reconsider its action.*  
7 *that the lead agency's decision is not consistent with this chapter,*  
8 *Division 13 (commencing with Section 21000), the state's*  
9 *policies adopted by the board for conducting surface mining*  
10 *operations in areas of statewide or regional significance, or the*  
11 *lead agency's surface mining or land use ordinances, the board*  
12 *may grant a permit to conduct surface mining operations taking*  
13 *into account both of the following:*

14 *(A) That the areas in question have been determined to be of*  
15 *statewide or regional significance.*

16 *(B) Any conditions that were proposed by the lead agency.*

17 *(5) In a determination to grant a permit to conduct surface*  
18 *mining operations, notwithstanding Section 2757, the board may*  
19 *impose those conditions on the mining operation it deems*  
20 *appropriate under the circumstances.*

21 *(6) The board shall provide notice of a public hearing*  
22 *required by this subdivision consistent with the notice provisions*  
23 *set forth in Section 65091 of the Government Code, including*  
24 *providing notice to the lead agency.*

25 *SEC. 29. Section 2796.5 of the Public Resources Code is*  
26 *amended to read:*

27 *2796.5. (a) The director, with the consultation of appropriate*  
28 *state and local agencies, may remediate or complete reclamation*  
29 *of abandoned mined lands that meet all of the following*  
30 *requirements:*

31 *(1) No operator having both the responsibility and the*  
32 *financial ability to remediate or reclaim the mined lands can be*  
33 *found within the state.*

34 *(2) No reclamation plan is in effect for the mined lands.*

35 *(3) No financial assurances exist for the mined lands.*

36 *(4) The mined lands are abandoned, as that term is used in*  
37 *paragraph (6) of subdivision (h) of Section 2770.*

38 *(b) In deciding whether to act pursuant to subdivision (a), the*  
39 *director shall consider whether the action would accomplish one*  
40 *of the following:*

1 (1) The protection of the public health and safety or the  
2 environment from the adverse effects of past surface mining  
3 operations.

4 (2) The protection of property that is in danger as a result of  
5 past surface mining operations.

6 (3) The restoration of land and water resources previously  
7 degraded by the adverse effects of surface mining operations.

8 (c) The director may also consider the potential liability to the  
9 state in deciding whether to act under this section. Neither the  
10 director, the department, nor the state, or its appointees,  
11 employees, or agents, in conducting remediation or reclamation  
12 under this section, shall be liable under applicable state law, and  
13 it is the intent of the Legislature that those persons and entities  
14 not be liable for those actions under federal laws.

15 (d) (1) The remediation or reclamation work performed under  
16 this section includes, but is not limited to, supervision of  
17 remediation or reclamation activities that, in the director's  
18 judgment, is required by the magnitude of the endeavor or the  
19 urgency for prompt action needed to protect the public health and  
20 safety or the environment. The action may be taken in default of,  
21 or in addition to, remedial work by any other person or  
22 governmental agency, and regardless of whether injunctive relief  
23 is being sought.

24 (2) The director may authorize the work to be performed  
25 through department staff, with the cooperation of any other  
26 governmental agency, or through contracts, and may use rented  
27 tools or equipment, either with or without operators furnished.

28 (3) In cases of emergency where quick action is necessary,  
29 notwithstanding any other provision of law, the director may  
30 enter into oral contracts for the work, and the contracts, whether  
31 written or oral, may include provisions for the rental of tools or  
32 equipment and in addition the furnishing of labor and materials  
33 necessary to accomplish the work. These emergency contracts  
34 are exempt from approval by the Department of General Services  
35 pursuant to Section 10295 of the Public Contract Code.

36 (4) The director shall be permitted reasonable access to the  
37 abandoned mined lands as necessary to perform any remediation  
38 or reclamation work. The access shall be obtained with the  
39 consent of the owner or possessor of the property or, if the  
40 consent is withheld or otherwise unobtainable, with a warrant

1 duly issued pursuant to the procedure described in Title 13  
2 (commencing with Section 1822.50) of Part 3 of the Code of  
3 Civil Procedure. However, in the event of an emergency  
4 affecting the public health or safety, the director may enter the  
5 property without consent or the issuance of a warrant.

6 (e) For any remediation or reclamation work accomplished, or  
7 other necessary remedial action taken by any governmental  
8 agency, the operator, landowner, and the person or persons who  
9 allowed or caused any pollution or nuisance are liable to that  
10 governmental agency to the extent of the reasonable costs  
11 actually incurred in remediating, reclaiming, or taking other  
12 remedial action. The amount of the costs is recoverable in a civil  
13 action by, and paid to, the governmental agency and the director  
14 to the extent of the director's contribution to the costs of the  
15 remediation, reclamation, cleanup, and abatement or other  
16 corrective action.

17 (f) (1) The amount of the costs constitutes a lien on the  
18 affected property upon service of a copy of the notice of lien on  
19 the owner and upon the recordation of a notice of lien, which  
20 identifies the property on which the remediation or reclamation  
21 was accomplished, the amount of the lien, and the owner of  
22 record of the property, in the office of the county recorder of the  
23 county in which the property is located. Upon recordation, the  
24 lien has the same force, effect, and priority as a judgment lien,  
25 except that it attaches only to the property posted and described  
26 in the lien. The lien shall continue for 10 years from the time of  
27 the recording of the notice of the lien unless sooner released or  
28 otherwise discharged, and may be renewed.

29 (2) Not later than 45 days after receiving a notice of lien, the  
30 owner may petition the court for an order releasing the property  
31 from the lien or reducing the amount of the lien. In this court  
32 action, the governmental agency that incurred the costs shall  
33 establish that the costs were reasonable and necessary. The lien  
34 may be foreclosed by an action brought by the director, for a  
35 money judgment. Money recovered by a judgment in favor of the  
36 director shall be used for the purposes of this chapter.

37 (g) If the operation has been idle for more than one year  
38 without obtaining an approved interim management plan, an  
39 application for the review of an interim management plan filed  
40 for the purpose of preventing the director from undertaking

1 remediation or reclamation of abandoned mined lands under this  
2 section shall be voidable by the lead agency or the board upon  
3 notice and hearing by the lead agency or the board. In the event  
4 of conflicting determinations, the decision of the board shall  
5 prevail.

6 (h) "Remediate," for the purposes of this section, means to  
7 improve conditions so that threat to or damage to public health  
8 and safety or the environment are lessened or ameliorated,  
9 including the cleanup and abatement of pollution or nuisance or  
10 threatened pollution or nuisance.

11 (i) "Threaten," for the purposes of this section, means a  
12 condition creating a probability of harm, when the probability  
13 and potential extent of harm make it reasonably necessary to take  
14 action to prevent, reduce, or mitigate damages to persons,  
15 property, or the environment.

16 (j) This section shall apply to abandoned mined lands on  
17 which the mining operations were conducted after January 1,  
18 1976.

19 (k) The director may act under this section only upon the  
20 appropriation of funds by the Legislature for the purposes of  
21 carrying out this section.

22 (l) Nothing in this section limits the authority of any state  
23 agency under any other law or regulation to enforce or administer  
24 any cleanup or abatement activity.

25 ~~(m) This section shall remain in effect only until January 1,~~  
26 ~~2007, and as of that date is repealed, unless a later enacted statute~~  
27 ~~that is enacted before January 1, 2007, deletes or extends that~~  
28 ~~date.~~

29 *SEC. 30. Section 30404 of the Public Resources Code is*  
30 *amended to read:*

31 30404. (a) The commission shall periodically, in the case of  
32 the State Energy Resources Conservation and Development  
33 Commission, the State Board of Forestry and Fire Protection, the  
34 State Water Resources Control Board and the California regional  
35 water quality control boards, the State Air Resources Board and  
36 air pollution control districts and air quality management  
37 districts, the Department of Fish and Game, the Department of  
38 Parks and Recreation, the Department of Boating and  
39 Waterways, ~~the Division of Mines and Geology California~~  
40 *Geological Survey* and the Division of Oil, Gas, and Geothermal

1 Resources in the Department of Conservation, and the State  
2 Lands Commission, and may, with respect to any other state  
3 agency, submit recommendations designed to encourage the state  
4 agency to carry out its functions in a manner consistent with this  
5 division. The recommendations may include proposed changes in  
6 administrative regulations, rules, and statutes.

7 (b) Each of those state agencies shall review and consider the  
8 commission recommendations and shall, within six months from  
9 the date of their receipt, to the extent that the recommendations  
10 have not been implemented, report to the Governor and the  
11 Legislature its action and reasons therefor. The report shall also  
12 include the state agency's comments on any legislation that may  
13 have been proposed by the commission.

14 *SEC. 31. No reimbursement is required by this act pursuant*  
15 *to Section 6 of Article XIII B of the California Constitution*  
16 *because the only costs that may be incurred by a local agency or*  
17 *school district will be incurred because this act creates a new*  
18 *crime or infraction, eliminates a crime or infraction, or changes*  
19 *the penalty for a crime or infraction, within the meaning of*  
20 *Section 17556 of the Government Code, or changes the definition*  
21 *of a crime within the meaning of Section 6 of Article XIII B of the*  
22 *California Constitution.*

23  
24  
25 **All matter omitted in this version of the bill**  
26 **appears in the bill as amended in**  
27 **Assembly June 30, 2005 (JR11)**  
28